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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixtieth year

Identical letters dated 14 September 2005 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I would like to inform you of a request from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 that directly relates to its ability to implement its Completion Strategy. The President has requested that Judge Christine Van Den Wyngaert, a national of Belgium, be able to serve in the trial in Case No. IT-95-13/1, *The Prosecutor* v. *Mrksic, et al.*, which commences on 3 October 2005.

You will recall that Judge Van Den Wyngaert's term of office as a member of the pool of ad litem judges came to an end on 11 June 2005. However, in response to my request as contained in my letter of 7 January 2005 (A/59/666-S/2005/9), the Security Council, by its resolution 1581 (2005) and the General Assembly, at its 80th plenary meeting, on 20 January 2005, decided, inter alia, that Judge Van Den Wyngaert should continue beyond the expiry of her term of office as an ad litem judge in order to finish the *Limaj* case. Judge Van Den Wyngaert continues to serve in that case which the President of the International Tribunal has indicated is due to be completed in November 2005.

Subsequently, on 19 November 2004, Judge Van Den Wyngaert was elected as a permanent judge of the International Tribunal with a four-year term beginning on 17 November 2005.

Consequently, the approval of the Security Council as the parent organ of the International Tribunal and the General Assembly as the organ that elects its judges

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would be need to allow Judge Van Den Wyngaert to serve as of 3 October 2005 on the *Mrksic* case, given that she has been authorized to continue her functions only as an ad litem judge in the *Limaj* case and that she will begin her elected four-year term as a permanent judge of the International Tribunal only on 17 November 2005.

I would therefore like to propose that the General Assembly and the Security Council authorize Judge Van Den Wyngaert's assignment to the *Mrksic* case as of 3 October 2005 as a permanent judge of the International Tribunal, notwithstanding the fact that her term as a permanent judge will begin only on 17 November 2005. This proposal, if approved, would for the period from 3 October to 17 November 2005, constitute an exception to article 12, paragraph 1, of the statute of the International Tribunal, which provides that the Chambers of the International Tribunal shall be composed of 16 permanent independent judges. Notwithstanding her early assignment to the *Mrskic* case, she would nevertheless be able to serve out her full four-year term ending on 16 November 2009.

I would also like to confirm that Judge Van Den Wyngaert's assignment to the *Mrskic* case would have no additional financial consequences for the International Tribunal.

I am sure that you will agree that it is highly desirable that every effort be made to ensure that the International Tribunal remains in the best position to achieve the target dates in its Completion Strategy. Allowing Judge Van Den Wyngaert to serve in the *Mrskic* case at this time will definitely assist in that purpose. I should accordingly be most grateful if you would bring the present letter to the immediate attention of the members of the General Assembly and the Security Council in order that they might take appropriate action on this matter as soon as possible.

(*Signed*) Kofi A. **Annan**